

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVISIONS TO LEVEL PAYMENT PLAN RULES [199 IAC 19.4(11) AND 20.4(12)]	DOCKET NO. RMU-04-5
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ORDER ADOPTING RULE MAKING

(Issued October 5, 2004)

PROCEDURAL HISTORY

Pursuant to the authority of Iowa Code §§ 17A.4, 476.1, 476.2, and 476.20 (2003), the Utilities Board (Board) is rescinding its current level payment plan rules found in 199 IAC 19.4(11)"e" and 20.4(12)"e" and is adopting new rules shown in the notice attached to this order and incorporated herein by reference. The adopted level payment plan rules were proposed by the Board in an order issued on June 21, 2004, in Docket No. RMU-04-5, In re: Revisions to Level Payment Plan Rules [199 IAC 19.4(11) and 20.4(12)]. The Board proposed changes to the current level payment plan rules based upon an inquiry conducted by the Board in Docket No. NOI-03-3, In re: Review of Level Payment Plan Rules. Through the inquiry, the Board found that utilities were not always following the current rules and that in some instances there were significant changes in monthly payments under the level payment plans used by some of the utilities.

A "Notice of Intended Action" with the new proposed rules was published in IAB Vol. XXVII, No. 1 (7/7/04), p. 39, as ARC 3493B.

In the "Notice of Intended Action," the Board also proposed to adopt new paragraphs 199 IAC 19.4(11)"f" and 20.4(12)"f" concerning customer requests for a change of payment date. The Board will not adopt the proposed new paragraphs "f." The Board has determined that the new paragraphs are unnecessary since the same provisions appear in paragraphs 199 IAC 19.4(11)"a" and 20.4(12)"a."

Comments were filed by Aquila Inc., d/b/a Aquila Networks (Aquila), Interstate Power and Light Company (IPL), the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and MidAmerican Energy Company (MidAmerican).

An oral presentation was held on September 1, 2004. MidAmerican, IPL, and the Iowa Association of Electric Cooperatives appeared and provided additional comments.

The Board has summarized the written and oral comments below and discusses the revisions made in adopting the new level payment plan rules. Since the proposed language and adopted rules are the same for natural gas service, paragraph 19.4(11)"e," and for electric service, paragraph 20.4(12)"e," the Board will address them together.

COMMENTS

The Consumer Advocate made a general comment that the proposed rules seem to be a reasonable approach and should be adopted.

Rules 19.4(11)"e" and 20.4(12)"e"

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than (250 ccf) (3,000 kWh) per month. A level payment plan should be designed to limit the volatility of a customer's bills and maintain reasonable account balances. The level payment plan shall include at least the following:

There were no comments made concerning the introductory paragraph and it will be adopted as proposed.

Rules 19.4(11)"e"(1) and 20.4(12)"e"(1)

- (1) Be offered to each eligible customer when the customer initially requests service.**

MidAmerican:

MidAmerican opposes requiring utilities to offer a level payment plan when a customer initially requests service. MidAmerican suggested that customers may not have sufficient usage history when they initiate service, especially if service is at a new premise. MidAmerican proposes the following alternative language:

1) ~~Be offered to each eligible customer~~ customers no less than annually through bill inserts or other publications, or at the time the ~~when the~~ customer initially requests service.

IPL:

IPL does not believe that there is always sufficient usage data available to offer a level payment plan when service is initially requested. IPL believes the level payment plan should be available to customers any time they wish to enroll and that

they should be informed by the utility that a level payment plan is an option. IPL proposes that this paragraph be deleted and replaced with the following language:

1) Be made available to customers and information provided to customers on level payment plans to allow the customer to choose this payment option.

Board Analysis:

The current level payment plan rules require the utility to offer a customer a level payment plan when the customer initially requests service. No utility has requested a waiver of this requirement. Even though the customer may be initiating service at a new premise, the Board finds that the utility should still offer the customer a level payment plan, even if premise-specific information is not available. The adopted rules allow the utility to adjust the monthly level payment amount if the initial monthly payment turns out to be more than 10 percent too high or too low, so the lack of initial data should not cause major problems. The Board will adopt the paragraphs (1) as proposed.

Rules 19.4(11)"e"(2) and 20.4(12)"3"(2)

- (2) Allow for entry into the level payment plan anytime during the calendar year.**

MidAmerican:

MidAmerican stated it is pleased to see current language removed that requires the anniversary month to be the month the customer entered into the plan. This change provides the ability for the review to occur during the off-peak seasons, when customers do not have large credits or debits accrued.

Board Analysis:

The Board will adopt this subparagraph as proposed.

Rules 19.4(11)"e"(2) and 20.4(12)"e"(3)

- (3) Provide that a customer may request termination or withdrawal from the plan at any time. If the customer's account is in arrears at the time of termination or withdrawal, the balance shall be due and payable at the time of termination or withdrawal. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated or withdrawn from a level payment plan.**

IPL:

IPL made three comments on this paragraph. First, IPL proposes deletion of the word "withdrawal" from the proposed rule. IPL states that it is not defined in the rule and is confusing.

Second, IPL states that the provision that allows a utility to refuse to offer a level payment plan to a customer for six months after the customer has terminated a previous plan may conflict with the requirement that level payment plans are to be offered when customers initially request service in subparagraphs 19.4(11)"e"(1) and 20.4(12)"e"(1). IPL seeks direction from the Board in the situation where a customer terminates a level payment plan at one residence, moves to another, and requests a new level payment plan. In this situation, it appears the utility would not be required to offer a level payment plan under subparagraphs 19.4(11)"e"(3) and 20.4(12)"e"(3),

even though 19.4(11)"e"(1) and 20.4(12)"e"(1) would appear to require it, according to IPL.

Third, IPL believes that the six-month period may conflict with proposed rules concerning payment arrangements in Docket No. RMU-04-2. If a customer on an initial payment arrangement with a level payment plan defaults on the arrangement, the customer may be eligible for a second arrangement but apparently could not require a level payment plan as part of the arrangement.

MidAmerican:

MidAmerican suggests using either the word "termination" or the word "withdrawal" since there is no substantive difference between the two.

Board Analysis:

The Board agrees that use of both of the terms "termination" and "withdrawal" is not necessary and may be confusing. A level payment plan that ends is terminated, regardless of whether the termination is by the utility or at the request of the customer. The Board will delete the term "withdrawal" from the adopted rule.

The Board proposed the six-month period before a utility is required to offer a customer another level payment plan after the customer has terminated a level payment plan based upon comments from the utilities in Docket No. NOI-03-3. The proposed provision is permissive, giving the utility the flexibility to deny a new level payment plan in those situations where the customer terminates one level payment plan and then requests a new plan within the six-month period in an attempt to manipulate the monthly payment amount or the balance. A customer moving from

one premise to another would not likely be attempting to manipulate level payment plan procedures and subparagraph 19.4(11)"e"(1) would control. The Board would expect a utility to offer a level payment plan to a customer who terminates an existing plan at one location and then requests a new plan at a different location.

The six-month period does not conflict with the new provisions adopted in Docket No. RMU-04-2, In re: Revisions to Consumer Services Rules [199 IAC 19.4(10), 19.4(13), 19.4915), 19.4(16), 20.4(11), 20.4(14), 20.4(15), and 20.4(16)].

The provisions adopted in Docket No. RMU-04-2 provide a utility the flexibility to require that a customer enter into a level payment plan when the customer enters into a payment agreement. Both provisions are permissive to provide utilities more flexibility to consider and respond to the facts and circumstances of each individual account.

The Board will adopt subparagraphs (3) as proposed except for deletion of the references to "withdrawal" from a level payment plan.

Rules 19.4(11)"e"(4) and 20.4(12)"e"(4), first paragraphs

- (4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in this subparagraph. The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the computation method in the level payment plan.**

MidAmerican:

MidAmerican believes utilities might also look at past experience when computing level payments and has proposed a change to allow for this historical review. Additionally, MidAmerican believes describing the computation method in the tariff is sufficient and opposes the proposed language requiring customers be notified of changes to the computation method. Trying to explain complex computations could cause unnecessary confusion and apprehension, according to MidAmerican. Interested customers have the option of reviewing the tariff or discussing the method with a utility employee. MidAmerican, therefore, proposes the following changes to this paragraph:

4) Use a computation method that produces a reasonable monthly level payment amount which may take into account ~~forward-looking~~ factors such as fuel price and weather, ~~forecasts~~ and complies with requirements in this subparagraph. The computation method used by the utility must be described in the utility's tariff and shall be subject to Board review and approval. ~~The utility shall give notice to affected customers after Board approval of changes in the computation method in the level payment plan.~~

IPL:

IPL proposes changing the word "forecasts" to the word "normalization" in this paragraph. IPL is concerned that utilities will attempt to forecast the weather and use it as a factor in level payment calculations. IPL believes "normalization" would be a more predictable method of using historic weather data.

Concerning the last sentence of this paragraph, IPL is concerned that a requirement to inform customers each time a change is made to the computation method of the level payment would be burdensome and of limited benefit to customers. IPL feels it would result in unnecessary expense and create customer confusion. IPL proposes the following change to the last sentence of this paragraph:

"The utility shall give notice to affected customers, when ordered by the Board, after Board approval of changes in the computation."

Board Analysis:

The Board proposed the language allowing a utility to use forward-looking factors in calculating a monthly level payment amount to ensure utilities understood that they could use forecasts as part of a level payment plan computation method. The current rule states that the utility may "estimate" the monthly level payment amount. This estimate could have included forecasts, but utilities seemed to be unsure whether they were authorized as part of the computation method.

The Board has provided specific language in the proposed rules that allows use of forward-looking factors such as projected fuel prices and long-term weather forecasts. The Board finds this language provides the most flexibility for the utility in developing a computation method and finds that use of the term "normalization," which tends to focus on historical weather data, might limit that flexibility. Under the proposed provisions, a utility may develop a computation method including historical data, forecasts, or a combination. This should allow a utility to develop a computation method that fits its needs and will result in a reasonable monthly payment amount.

The intent of the customer notification provision in the last sentence is to require the utility to give customers notice when the utility changes the type of computation method for computing a level payment amount, such as going from an estimated 12-month computation method to a rolling-12 computation method. Those major changes are more likely to cause a customer to reconsider participation in the level payment plan. The Board will revise the proposed language to make this clear.

The Board will adopt the first unnumbered paragraph in subparagraphs (4) as follows:

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in this subparagraph. The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

Rules 19.4(11)"e"(4) and 20.4(12)"e"(4), second paragraphs

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, whenever requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

IPL:

IPL comments that customers who request recomputation of the level payment amount often wish to set the payment amount themselves. This could result in payment amounts that are lower than the amount computed by the utility's approved

methodology. IPL believes the utility should be the one calculating the amount. IPL proposes adding the following sentence to this paragraph.

The level payment amount shall be recomputed by the utility if done at the customer's request.

IPL also suggests that any changes in the monthly level payment amount resulting from a customer request become effective with the next bill. Implementation of a change once a bill has been issued is a labor-intensive process.

Aquila:

Aquila recommends deleting the clause ". . . or whenever price, consumption, or a combination of factors, results in a new estimate differing by 10 percent or more from that in use." Aquila states that this language requires utilities to recalculate a level payment amount if the new estimate differs by more than 10 percent from the existing payment amount. Aquila's goal is to provide customers with a stable monthly bill and to manage total plan balances. If the 10 percent rule is retained, the task of explaining level payment provisions to customers is more complex.

Board Analysis:

The language concerning a customer request for recalculation is in the current rule and does not require the utility to accept a monthly payment amount suggested by the customer. Similarly, the proposed language does not require a utility to accept a monthly payment amount suggested by a customer; the utility is required only to recalculate the monthly payment amount upon request by a customer. Under the rules adopted in this rule making, a utility would be expected to recompute the level

payment amount based upon a customer request in accordance with its plan and tariff. Notice of a change in the amount would then be required as provided in this subparagraph. The Board will adopt third unnumbered paragraphs in paragraphs (4) as proposed.

Rules 19.4(11)"e"(4) and 20.4(12)"e"(4), third paragraphs

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12 and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Aquila:

Aquila suggests deleting the first sentence in the above paragraph. Aquila believes this is unnecessarily restrictive and counter to the spirit of the changes. Aquila has considered various level payment adjustment options including adjustments every six or 24 months. Aquila believes utilities should be allowed freedom to design creative plans that serve the interests of the company and the customer. The Board will ultimately review any proposed changes to tariffs, which will prevent unreasonable approaches.

Board Analysis:

The unnumbered paragraph will not be revised as suggested by Aquila. The proposed language reflects the current rule and practice of adding any outstanding arrearage, and credit if the customer so chooses, to the recomputed monthly level

payment. The new provision makes it specific that any arrearage will be divided by 12, and the result will be added to the monthly payment amount.

The unnumbered paragraph will be adopted as proposed.

Rules 19.4(11)"e"(4) and 20.4(12)"e"(4), fourth paragraphs

Except when a utility has a level payment plan that re-computes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than 30 days prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

Aquila:

Aquila suggests changing the notice requirement from 30 days to 15 days.

Aquila states that a 30-day requirement causes a month's delay in the change due to the timing of the billing process. Aquila believes that the 30-day requirement is a holdover from the old rules, when plan balances and payments did not change quickly.

Board Analysis:

Comments were made at the oral presentation suggesting that some current billing cycles may be less than 30 days. Based upon those comments, the Board will revise the proposed language in this unnumbered paragraph by removing the 30-day requirement and substituting "at least one billing period." This revision should ensure the customer receives notice of the changed monthly payment amount in the bill at least one billing period before the new amount goes into effect.

Rules 19.4(11)"e"(5) and 20.4(12)"e"(5)

- (5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan shall terminate after 30 days of delinquency.**

IPL:

IPL believes the word "shall" in the last sentence should be replaced with the word "may." IPL asserts this change will give utilities more flexibility when customers are on payment arrangements.

MidAmerican:

Currently, MidAmerican only cancels budget billing if the customer is subject to disconnection and has a credit in the budget deferred balance. MidAmerican also believes the reference to a credit balance should be removed, as the current rules do not explicitly allow for cancellation of a delinquent account when there is a debit balance in the budget deferred account. MidAmerican proposes the last sentence be changed as follows:

~~If the account balance is a credit, the~~ The level payment plan ~~shall terminate~~
may be terminated after 30 days of delinquency.

If the Board is concerned customers with credit balances will be disconnected, a sentence could be added that requires the budget be cancelled and the credit applied to the bill prior to disconnection.

Board Analysis:

The Board finds that a revision should be made to the proposed paragraphs (5) to allow a utility the flexibility to keep a customer on a level payment plan when the customer is delinquent on a payment and has a credit balance. The Board will adopt the proposed paragraphs (5) with the following revision:

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan ~~shall terminate~~ may be terminated by the utility after 30 days of delinquency.

COSTS OF IMPLEMENTING RULE CHANGES

In the August 12, 2004, order, utilities were requested to provide an estimate of any additional costs they believe will result from the proposed changes in the level payment plan rules. MidAmerican indicated at the oral presentation that there would be costs associated with adoption of paragraphs "f." Since the Board is not adopting paragraphs "f," there should be no additional costs associated with the new level payment plan rules.

CONCLUSION

The Board will adopt the new level payment plan rules as discussed in this order. Interested parties should obtain a copy of the adopted amendments as published in the Iowa Administrative Bulletin, since editorial changes may be made by the Code Editor before publishing.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. A rule making identified as Docket No. RMU-04-5 is adopted.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 5th day of October, 2004.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 476.1, 476.2, 476.20, and 17A.4, the Utilities Board (Board) gives notice that on October 5, 2004, the Board issued an order in Docket No. RMU-04-5, In re: Revisions to Level Payment Plan Rules [199 IAC 19.4(11) and 20.4(12)], "Order Adopting Rules." The Board is rescinding its current level payment plan rules and adopting new level payment plan rules that provide the utilities the flexibility to develop better level payment plans. The Board is not adopting proposed new paragraphs 19.4(11)"f" and 20.4(12)"f" since similar provisions are in the current rules in paragraphs 19.4(11)"a" and 20.4 (12)"a."

A "Notice of Intended Action" with the proposed rescission and new proposed rules was published in IAB Vol. XXVII, No. 1 (7/7/04) p. 39, as ARC 3493B. Comments concerning the proposed amendments were filed by the Consumer Advocate Division of the Department of Justice, Interstate Power and Light Company, Aquila, Inc., d/b/a Aquila Networks, and MidAmerican Energy Company.

An oral presentation was held on September 1, 2004. MidAmerican Energy Company, Interstate Power and Light Company, and the Iowa Electric Cooperative Association appeared and provided oral comments.

The Board's order adopting the new rules can be found on the Board's Web site, www.state.ia.us/iub, or in hard copy in the Board's Record Center, 350 Maple Street, Des Moines, Iowa 50319-0069.

The Board made several revisions to the proposed new level payment rules based upon the comments received. These revisions were either to clarify or provide additional flexibility in the rules.

The new rules are intended to implement Iowa Code sections 476.1, 476.2, 476.20, and 17A.4.

The new level payment plan rules will become effective December 1, 2004.

The following rescissions and new rules are adopted.

Item 1. Rescind paragraph **19.4(11)"e"** and adopt the following **new** paragraph in lieu thereof:

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 250 ccf per month. A level payment plan should be designed to limit the volatility of a customer's bills and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel price and weather forecasts, and that complies with requirements in 19.4(11)"e"(4). The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing cycle prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.

Item 2. Rescind paragraph **20.4(12)"e"** and adopt the following **new** paragraph in lieu thereof:

e. Level payment plan. Utilities shall offer a level payment plan to all residential customers or other customers whose consumption is less than 3,000 kWh per month. A level payment plan should be designed to limit the volatility of a customer's bill and maintain reasonable account balances. The level payment plan shall include at least the following:

(1) Be offered to each eligible customer when the customer initially requests service.

(2) Allow for entry into the level payment plan anytime during the calendar year.

(3) Provide that a customer may request termination of the plan at any time. If the customer's account is in arrears at the time of termination, the balance shall be due and payable at the time of termination. If there is a credit balance, the customer shall be allowed the option of obtaining a refund or applying the credit to future charges. A utility is not required to offer a new level payment plan to a customer for six months after the customer has terminated from a level payment plan.

(4) Use a computation method that produces a reasonable monthly level payment amount, which may take into account forward-looking factors such as fuel

price and weather forecasts, and that complies with requirements in 20.4(12)"e"(4).

The computation method used by the utility shall be described in the utility's tariff and shall be subject to board approval. The utility shall give notice to customers when it changes the type of computation method in the level payment plan.

The amount to be paid at each billing interval by a customer on a level payment plan shall be computed at the time of entry into the plan and shall be recomputed at least annually. The level payment amount may be recomputed monthly, quarterly, when requested by the customer, or whenever price, consumption, or a combination of factors results in a new estimate differing by 10 percent or more from that in use.

When the level payment amount is recomputed, the level payment plan account balance shall be divided by 12, and the resulting amount shall be added to the estimated monthly level payment amount. Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be given the option of applying any credit to payments of subsequent months' level payment amounts due or of obtaining a refund of any credit in excess of \$25.

Except when a utility has a level payment plan that recomputes the level payment amount monthly, the customer shall be notified of the recomputed payment amount not less than one full billing period prior to the date of delinquency for the recomputed payment. The notice may accompany the bill prior to the bill that is affected by the recomputed payment amount.

(5) Irrespective of the account balance, a delinquency in payment shall be subject to the same collection and disconnection procedures as other accounts, with the late payment charge applied to the level payment amount. If the account balance

is a credit, the level payment plan may be terminated by the utility after 30 days of delinquency.

October 5, 2004

/s/ Diane Munns

Diane Munns
Chairman